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December 1, 2000

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VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Complaint by AT&T Regarding the Delivery of Calling Name Services
by BellSouth Telecommunications, Inc.*
Docket No. 00-00971

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Reply Brief on Threshold Issues. Copies of the enclosed are being provided to counsel of record for all parties.

Very truly yours,

Guy M. Hicks

GMH:ch
Enclosure

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

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**IN RE: COMPLAINT BY AT&T REGARDING THE DELIVERY OF CALLING
NAME SERVICES BY BELL SOUTH TELECOMMUNICATIONS, INC.**

Docket No. 00-00971

**BELL SOUTH TELECOMMUNICATIONS, INC.'S
REPLY BRIEF ON THRESHOLD ISSUES**

In its Complaint letter dated October 30, 2000, AT&T adamantly states that

BellSouth is in violation of the FCC's local number portability (LNP) order by performing only 6-digit GTT for CNAM. The FCC LNP order mandates that all carriers will comply with LNP rules and guidelines set forth by industry bodies such as the LNP Work Group, the Industry Number Committee, and the North American Numbering Council. In the "Generic Requirement for SCP Application and GTT Function for Number Portability," Section 4.3 indicates that a 10-digit GTT must be performed for CNAM when the 6-digit number is ported.

See Letter at 2. Given these bold statements, it is odd that AT&T's brief makes no mention whatsoever of the FCC's LNP Order. Nor does AT&T's Initial Brief (or the Initial Briefs of the Intervenor) even attempt to address BellSouth's point that "repeated searches of Section 4.3 of this guideline have failed to uncover any statement indicating that a 10D-GTT must be performed for Caller ID – Deluxe service, as AT&T alleges." See BellSouth's November 3, 2000 letter responding to AT&T's Complaint (emphasis in original). Instead, AT&T apparently has abandoned its dubious federal law arguments and crafted new arguments under state law. As explained below, however, AT&T's new arguments are simply wrong. Moreover, as explained below, the generic statements the Intervenor have

pulled out of the FCC's LNP order simply do not address the situation that is the subject of AT&T's complaint. Nor do they support any allegations that BellSouth has violated any provisions of federal or state law.

I. BELLSOUTH'S USE OF 6-DIGIT GLOBAL TITLE TRANSLATION DOES NOT VIOLATE SECTION 65-4-124(C).

As AT&T correctly notes in its initial brief, Tennessee statutes provide that:

All telecommunications services providers shall provide non-discriminatory interconnection to their public networks under reasonable terms and conditions; and all telecommunications services providers shall, to the extent that it is technically and financially feasible, be provided desired features, functions, and services promptly, and on an unbundled and non-discriminatory basis from all other telecommunications services providers.

T.C.A. § 65-4-124(c) (emphasis added). AT&T is wrong, however, when it argues that in the context of this docket, "[t]here can be no question that caller name services are 'desired features, functions, and services' that must be provided 'promptly.'" AT&T's Initial Brief at 2. Additionally, AT&T is wrong when it states that "BellSouth provides 10-Digit Global Title Translation to itself" *Id.* at 3. Finally, AT&T is wrong when it implies that BellSouth is providing services to itself that it is not providing to CLECs or that BellSouth is providing services to itself more promptly than it is providing those services to CLECs. *See Id.*

A. BellSouth is not required to provide calling name service at all.

In its 1995 proceedings addressing Caller ID services, the FCC recognized that establishing an SS7 arrangement necessary to deliver calling number information can be an expensive proposition. As a result, the FCC did "not require

carriers that do not have SS7 call set up capability to make the SS7 investments that would enable them to pass [calling party number]." See Rule and Policies Regarding Caller Number Identification Service – Caller ID, CC Docket No. 910281, 10 FCC Rcd 11700, 11703, ¶5 (1995). Instead, the FCC left the decision of whether to deliver calling party number information to the business judgment of the individual service provider.

Analogously, whether to provide calling name delivery service is a decision that is left to the business judgment of the individual service provider. See BellSouth's Initial Brief at 6-8. Moreover, the choice of which databases a service provider chooses to access and which databases a service provider chooses not to access also is left to the business judgment of the individual service provider. *Id.* BellSouth, therefore, is not required to subscribe to any particular database, and it is not required to deliver calling name information that is stored in databases to which it does not subscribe.

B. BellSouth has not refused to provide any service provider with any calling name delivery features, functions, and services that are related to AT&T's complaint.

Under the plain language of Section 65-4-124(a), BellSouth is required to provide other telecommunications services providers with desired features, functions, and services to the extent that it is technically and financially feasible to do so. BellSouth provides CLECs with nondiscriminatory access to its CNAM database, which is what CLECs need to deliver the calling name of a BellSouth end user to their customers. See Initial Brief at 14. Neither AT&T nor the Intervenors

claim that they have been denied access to BellSouth's CNAM database¹, and neither AT&T nor the Intervenor claim that this access does not enable them to deliver calling name information to their end users who subscribe to services that are similar to BellSouth's Caller-ID Deluxe.

Instead, AT&T and the Intervenor complain that BellSouth cannot yet deliver the calling name associated with ported numbers to BellSouth's own end user customers. BellSouth's delivery of calling name information to its end user customers, however, has nothing to do with "features, functions, and services" BellSouth makes available to telecommunications services providers. Thus, neither BellSouth's delivery of calling name information nor its use of 6-Digit Global Title Translation to deliver such information falls within the ambit of section 65-4-124(a).

C. BellSouth is not refusing to provide CLECs services it is providing to itself, and BellSouth is not providing services to itself more promptly than it is providing those services to CLECs.

Although not required to do so, BellSouth maintains its own database which contains calling party information regarding its own customers, and it currently subscribes to other databases containing calling party information regarding customers of other service providers. To the extent that the NPA-NXX of a calling number is associated with one of these databases, BellSouth queries that database and delivers any calling name information retrieved from that database when a call

¹ In fact, AT&T has entered a "Calling Name Delivery (CNAM) Database Service Contract with BellSouth. See BellSouth's Initial Brief at 14 n.12.

is placed to a BellSouth Caller ID-Deluxe customer. This is true regardless of whether the calling party is a BellSouth customer or a CLEC customer.

What is not true is AT&T's assertion that "BellSouth provides 10-Digit Global Title Translation to itself" See AT&T's Initial Brief at 3. BellSouth currently uses 6-Digit Global Title Translation -- not 10-Digit Global Title Translation. As a result, in some cases BellSouth currently is unable to deliver the calling name of a BellSouth customer whose telephone number is ported from another service provider.² See BellSouth's Initial Brief at 15. BellSouth is working on a permanent solution to this situation. Until that permanent solution is implemented, however, BellSouth will continue to be unable to deliver the calling name of a BellSouth customer whose telephone number is ported from another service provider.

The same situation that prevents BellSouth from delivering the calling names of its customers with ported numbers also prevents BellSouth from delivering the calling name of a CLEC's customers with ported numbers in certain instances.³ The same permanent solution will simultaneously remedy this situation for BellSouth's customers and for the CLECs' customers alike. BellSouth, therefore, is treating the CLECs no differently than it is treating itself.

² In light of this situation, XO's statement that "[o]f course, where an ILEC customer calls another ILEC customer, the CNAM information is still delivered" is not entirely accurate. See XO's Initial Brief at 3. Similarly, XO's statement that "BellSouth's customers, who typically have BellSouth numbers, are not similarly affected" does not tell the whole story. When a BellSouth customer does not have a BellSouth number (but instead has a number ported from another service provider), that BellSouth customer is, in fact, similarly affected.

D. Even if AT&T, the Intervenor, or another telecommunications service provider was requesting "features, functions, and services," nothing in section 65-4-124(a) suggests that BellSouth would be required to provide such "features, functions, and services" free of charge.

BellSouth's mid-term solution addresses the situation discussed in AT&T's complaint by allowing CLECs to input data regarding ported numbers into BellSouth's database without charge. See BellSouth's Initial Brief at 11-12. Even if Section 65-4-124(a) required BellSouth to provide this mid-term solution (which it does not), nothing in section 65-4-124(a) or any other provision of state or federal law suggests that BellSouth would be required to provide this option free of charge. In fact, the FCC has specifically stated that

we do not require that carriers pass calling party name to interconnected carriers without charge [W]e reach this conclusion, in part, because the mechanisms associated with the generation and delivery of calling party name and number are substantially different. The record indicates that while calling party number is routinely included in the SS7 Initial Address Message, calling party name is not.

See Rule and Policies Regarding Caller Number Identification Service – Caller ID, CC Docket No. 91-281, 10 FCC Rcd. 11700, 11746, ¶129 (1995).

BellSouth, therefore, would be entitled to charge AT&T and other CLECs for the mid-term solution if it chose to do so. As a matter of good faith, however, BellSouth is making this solution available to the CLECs at no charge pending BellSouth's implementation of the permanent solution. In light of BellSouth's good

³ As noted in Section I above, BellSouth can deliver the calling name of a CLEC's customer with a number that has been ported from another CLEC when both CLECs store their numbering information in the same database.

faith actions, the CLECs' complaint that this solution would require them to incur the minimal costs of downloading CNAM information into BellSouth's database ring hollow. See XO's Initial Brief at 5.

II. BELLSOUTH'S USE OF 6-DIGIT GLOBAL TITLE TRANSLATION DOES NOT AFFECT THE QUALITY, RELIABILITY, OR CONVENIENCE OF ANY SERVICE AT&T OR ANY OTHER CLEC PROVIDES TO ITS CUSTOMERS.

AT&T's complaint addresses BellSouth's delivery of calling party information to BellSouth's Caller ID-Deluxe subscribers. It does not address a service that AT&T provides to AT&T's end user customers. Accordingly, BellSouth's use of 6-Digit Global Title Translation has no effect on the "quality, reliability, or convenience" of any service AT&T or any other CLEC provides to its customers, see 47 U.S.C. §153(30), and it does not violate the FCC's number portability order.

III. BELLSOUTH'S USE OF 6-DIGIT GLOBAL TITLE TRANSLATION SUPPORTS NETWORK SERVICE, FEATURES, AND CAPABILITIES TODAY IN THE SAME MANNER AS IT SUPPORTED THE SAME SERVICE, FEATURES, AND CAPABILITIES THAT EXISTED AT THE TIME NUMBER PORTABILITY WAS IMPLEMENTED.

Before local number portability was implemented, BellSouth used 6-Digit Global Title Translation to deliver calling name information to its Caller-ID Deluxe customers. After local number portability was implemented, BellSouth continued to use (and still uses) the same 6-Digit Global Title Translation to deliver calling name information to its Caller ID - Deluxe customers. To the extent that 6-Digit Global Title Translation allows for the retrieval of calling party name information from the appropriate database, that information is retrieved and delivered today in

the same manner as it was before local number portability was implemented. BellSouth, therefore, provides number portability that supports network service, features, and capabilities today in the same manner as BellSouth supported the same service, features, and capabilities that existed at the time number portability was implemented. *See* 47 C.F.R. §52.23(a)(1).

IV. XO'S PUBLIC POLICY ARGUMENTS ARE MOOT

XO accuses the Hearing Officer of improperly framing the issues in this docket to address BellSouth's obligations "under *existing* state and federal law." XO Brief at 1. XO then claims that "should the Hearing Officer decide that current law is ambiguous, the TRA must still consider whether the agency should impose such a requirement as a matter of policy." XO Brief at 1 (emphasis in original). Even if the TRA had the unbridled discretion to impose requirements "as a matter of policy" (which it does not), XO's suggestion that the Hearing Officer ignore existing law and grant the requested relief as a matter of policy is moot.

As explained below, BellSouth is in the process of implementing a permanent solution that will remedy the situation with regard to ported numbers of BellSouth customers and CLEC customers alike. In the meantime, BellSouth has offered the CLECs a mid-term mechanized solution at no charge. Moreover, while XO asks for an order requiring BellSouth to furnish 10-Digit Global Title Translations in Tennessee by April 2001, BellSouth already is working toward that very goal. XO's arguments are moot, therefore, because the situation described in AT&T's complaint already has been addressed.

A. The CLEC's claims regarding the timing of the permanent solution are wrong.

Implementing the permanent solution addressed in BellSouth's initial brief is no easy task. The process involves meticulous changes to an intricate computer system (the SS7 system) that literally directs all of the traffic that flows over BellSouth's network. A fender-bender in a construction area at the junction of two busy interstates can back up traffic for miles, and a traffic signal that is out of sync can disrupt traffic flow throughout an entire city. Similarly, miscalculations or incorrect entries in the process of converting to 10-Digit Global Title Translation could significantly disrupt traffic on BellSouth's network throughout its nine-state region. Contrary to the assertions of the CLECs, therefore, implementing the permanent solution is not simply a matter of allocating resources -- it is a matter of carefully testing and meticulously implementing an engineering solution without adversely affecting service to millions of customers.

Moreover, BellSouth takes issue with the CLECs' suggestions that BellSouth has "failed to meet its own deadline" for implementing the permanent solution. *See, e.g., XO's Initial Brief at 3.* BellSouth stated that it would develop a plan for implementing the permanent solution during the second quarter of 2000 -- not that the "upgrade" itself would be completed during this time. Similarly, BellSouth stated that it would begin the implementation process during the first quarter of 2001 -- not that the "upgrade" would occur during this time. As noted in BellSouth's letter of October 3, 2000, BellSouth believes that it can implement the

permanent solution with regard to Tennessee NPA-NXXs by April 2001. See Exhibit 2 to BellSouth's November 3, 2000 letter responding to AT&T's Complaint.

B. While it is implementing a permanent solution (which it is not required to do), BellSouth is providing a mid-term, mechanized solution to the CLECs free of charge.

In the meantime, BellSouth is offering a mid-term, mechanized solution to the CLECs without charge. This mid-term solution will enable BellSouth to deliver the calling name of a CLEC customer with a number ported from BellSouth -- if the CLEC will take advantage of the mid-term solution while the permanent solution is being implemented. The CLECs, however, have launched a barrage of complaints against this mid-term solution.

First, the CLECs complain that the mid-term solution gives BellSouth access to CNAM information about the CLECs' customers "which could be used in an anticompetitive manner." See Time Warner's Initial Brief at 4. This complaint ignores the fact that BellSouth already has access to this same information in other forms and that BellSouth already is prohibited from using information it receives in its capacity as a wholesaler to win customers in its capacity as a retailer. Second, the CLECs complain that the mid-term solution "free[s] BellSouth from the cost of dipping the appropriate database." *Id.* This complaint ignores the fact that these CLECs do not maintain their own databases and, therefore, the solution BellSouth has offered does not deprive the CLECs of any "dipping fees." Third, the CLECs complain that they must incur the cost of downloading CNAM information into BellSouth's database. *Id.* This complaint ignores the fact that rather than charging

CLECs for a solution it is not required to implement, BellSouth is providing this solution free of charge.

Finally, the CLECs claim that the mid-term solution "does not . . . address the problem of BellSouth failing to deliver calling name for ported CLEC numbers." XO's Initial Brief at 6. While this is true in some instances, it is not true in all instances. Assume, for example, that AT&T wins a customer from XO and that the customer takes its XO-assigned number with it. When that AT&T customer places a call to a BellSouth Caller ID-Deluxe customer, BellSouth's systems will read the NPA-NXX, see that it is assigned to XO, and query the database containing XO's number information. To the best of BellSouth's knowledge, XO's number information is maintained in Illuminet's database -- the same database in which AT&T's number information is maintained. Thus when BellSouth's system queries Illuminet's database, it will retrieve the number information associated with the AT&T calling number because AT&T's number information is in that database.

Despite any shortcomings alleged by the CLECs, the mid-term solution is a good-faith attempt by BellSouth to address the situation described in AT&T's complaint until the permanent solution is implemented. BellSouth is diligently working to implement the permanent solution. If all goes as planned, it will be in place in less time than it often takes to try a contested case.

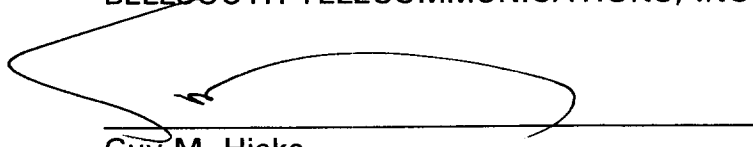
CONCLUSION

As explained above, AT&T's complaint addresses a BellSouth retail service that BellSouth provides to BellSouth's end users. Moreover, the same situation

that is addressed in AT&T's complaint affects similarly-situated BellSouth customers in the same manner as it affects the customer described in AT&T's complaint. Finally, although not required to do so, BellSouth has provided various solutions to AT&T -- at no charge -- pending BellSouth's implementation of a permanent solution. The TRA, therefore, should dismiss AT&T's complaint and deny the relief requested in that complaint.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

A handwritten signature in black ink, appearing to read "Guy M. Hicks", is written over a horizontal line. The signature is stylized with a large loop at the end.

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CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2000, a copy of the foregoing document was served on the parties of record, via the method indicated:

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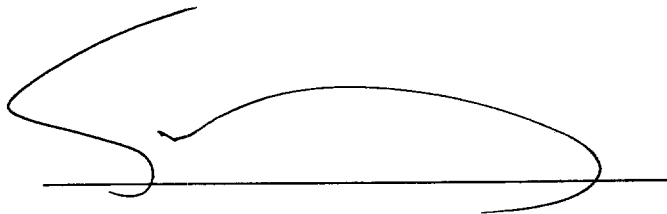
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